

**SUPREME COURT MINUTES  
FRIDAY, JUNE 26, 1998  
SAN FRANCISCO, CALIFORNIA**

S069124      In re Horace Edwards Kelly  
                                         on  
                                         Habeas Corpus

The petition for writ of habeas corpus filed on March 31, 1998, is denied, claim 1 being denied in light of the denial of the “petition for writ of mandate, habeas corpus or other extraordinary relief, and emergency request for stay” filed in *Kelly v. Superior Court*, S070597.

Except for claims 1, 29, 30, 32, 33, all claims are barred as untimely. They are substantially delayed because they are based on information that was long known, or should have been known, to petitioner and his counsel. Good cause has not been offered to justify or explain the delay, and the claims do not come within any of the exceptions to the bar of untimeliness. (*In re Clark* (1993) 5 Cal.4th 750, 767-787 [delay rules], 797-798 [exceptions to the untimeliness bar].)

Claims 6 and 21, subclaim B., are denied to the extent they duplicate arguments raised on appeal, on the ground that they were raised and rejected on appeal and do not come within any of the exceptions that would permit their reconsideration on habeas corpus. (*In re Waltreus* (1965) 62 Cal.2d 218, 225; *In re Harris* (1993) 5 Cal.4th 813, 829-841 [exceptions to *Waltreus* and related bars].)

Claims 6 (to the extent it differs from arguments raised on appeal but is based on the appellate record), 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, subclaims B. and C., 19, 21, subclaims A. and (to the extent it differs from arguments raised on appeal) B., 22, 24, 26, 27, and 28 are denied on the ground that they could have been, but were not, raised on appeal, and they do not come within any of the exceptions that would permit their consideration on habeas corpus. (*In re Dixon* (1953) 41 Cal.2d 756, 759; *In re Harris, supra*, 5 Cal.4th at p. 825, fn. 3, & pp. 829-841 [exceptions to *Waltreus* and related bars].)

Claims 6 and 10 are denied to the extent they duplicate contentions raised in *In re Kelly*, S026194, on the ground they were raised and rejected in a previous petition for writ of habeas corpus, and they do not come within any of the exceptions that would permit their reconsideration in a new petition. (*In re Miller* (1941) 17 Cal.2d 734; *In re Harris, supra*, 5 Cal.4th at pp. 829-841 [exceptions

to *Waltreus* and related bars].)

Claims 5, 25, and 31 are denied because petitioner failed to object or otherwise raise the issue at trial. (*People v. Turner* (1994) 8 Cal.4th 137, 176-177; *People v. Edwards* (1991) 54 Cal.3d 787, 827; *People v. Howard* (1992) 1 Cal.4th 1132, 1159.)

All claims also are denied on the merits. (See *Harris v. Reed* (1989) 489 U.S. 255, 264, fn. 10.)

The request for a stay of execution of judgment is denied.

Kennard, J. would issue an order to show cause with respect to claim 1, but joins in the disposition of petitioner's other claims.

Mosk, J., and Brown, J., would deny the petition solely on the merits.

2nd Dist.      People, Respondent  
B102454      v.  
Div. 2      Emile Keelen, Appellant  
S063705

The time for granting or denying review in the above cause is hereby extended to and including July 27, 1998, or the date upon which review is either granted or denied.